



**STATE OF MONTANA  
DEPARTMENT OF CORRECTIONS  
POLICY DIRECTIVE**

Policy No. DOC 1.3.10	Subject: <b>REDUCTION IN FORCE</b>
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 3
Section 3: Human Resources Bureau	Effective Date: July 1, 1996
Signature: /s/ Mike Ferriter, Director	Revision Date: 07/26/06

## **I. POLICY**

The Department of Corrections recognizes that at times a Reduction in Force (RIF) may be required. The Department strives to manage RIFs in the fairest way possible in accordance with the provisions of this policy.

This policy mirrors the Department of Administration's Reduction in Work Force Guide.

## **II. APPLICABILITY**

All Department divisions, facilities, and programs.

## **III. REFERENCES**

- A. 2-18-1200, 3-0165; *Montana Operations Manual*
- B. *The Reduction in Work Force Guide*

## **IV. DEFINITIONS**

Reduction in Work Force – A management action taken for non-disciplinary reasons in which an employee is laid off from employment. The RIF may take place for reasons including, but not limited to: elimination of programs; reduction in FTEs by the legislature; lack of work; lack of funds; expiration of grants; reorganization of a state agency; or privatization of a service normally or traditionally provided by an employee of a department.

Effective Date of Lay-Off – The date determined by the agency to be the end of employment for an employee, allowing adequate time for appropriate notice of lay-off.

Termination Date – The date the employee is actually removed from the payroll. Notice of anticipated lay-off means a written notice informing an employee that the agency anticipates the employee will be laid off. The notice will provide a tentative effective date of lay-off.

## **V. DEPARTMENT DIRECTIVES**

1. If it is necessary to achieve a reduction in the work force, consideration must be given to the programs to be carried out by the agency and the staff structure which, after the reduction, will most expeditiously achieve program objectives. Accordingly, employees will be retained giving consideration to the importance of these work force qualities: skill and length of continuous service with state government.
2. Skill means an assessment of qualifications and experience. Consideration should be given to any or all of the following:

Policy No. DOC 1.3.10	Chapter 1: Administration and Management	Page 2 of 3
Subject: <b>REDUCTION IN FORCE</b>		

- a. qualifications and experience to perform the duties of a specific position which will be retained;
  - b. general qualifications and experience beneficial to future achievement of agency goals and objectives;
  - c. the performance on specific, related tasks to those required by the position which will be retained; and
  - d. general performance history.
3. Skill will be assessed first, and when such skill assessment does not provide sufficient basis to select for layoff, then length of service with state government will be considered next.
4. An employee should be counseled as much in advance of the anticipated action as possible regarding available options and reasons for lay-off. An employee will be given a written notice of anticipated lay-off at the time of counseling that provides a tentative effective date of lay-off. An employee becomes eligible for benefits provided by the State Employee Protection Act at the time the employee receives written notice of anticipated lay-off.
5. Written notice must be provided to an employee and the employee's collective bargaining agent, if any, at least 60 days prior to a reduction in force when 25 or more employees are affected by the RIF and 14 days notice when fewer than 25 more employees are affected. If a lay-off is anticipated to last longer than 15 working days, the employee will be terminated.
6. Lay-off may not be used as an alternative to discharging an employee for cause or disciplinary purposes. Unsatisfactory employees should be terminated subsequent to complete and appropriate evaluation, review, and documentation. If an unsatisfactory employee is laid off without appropriate evaluation, review, and documentation, the employee must be treated the same as any other laid-off employee.
7. An employee will be reinstated to the same position or a position in the same class when such a position becomes vacant in the agency from which the employee was laid off if the vacancy occurs within one year of the employee's effective date of lay-off. Employees who have been laid off from the agency will be offered reinstatement on a "last-out/first-in" basis by skill match within a job classification. Specific reinstatement offers must be made to the employee in writing. The employee may accept or reject the reinstatement offer in writing within five working days following receipt of the offer. If an employee rejects a reinstatement offer, the employee loses all rights to the employment offered, to participate in future internal recruitment, and to benefits provided by the State Employee Protection Act. An agency is not required to make subsequent reinstatement offers to the employee.
8. Acceptance of permanent, seasonal, or temporary employment with a state agency does not end the reinstatement right for one year from the effective date of lay-off.
9. An employee is eligible to be considered as an internal applicant for job vacancies in the agency from which the employee was laid off for one year from the effective date of lay-off.
10. An employee who is terminated due to reduction in force within an agency and who has not chosen the additional retirement service purchase option is entitled to:
  - a. access to any job retraining and career development programs provided by the state, such

Policy No. DOC 1.3.10	Chapter 1: Administration and Management	Page 3 of 3
Subject: <b>REDUCTION IN FORCE</b>		

as those provided through the service delivery areas dislocated worker programs under the Workforce Investment Act of 1998, provided that the employee begins participating in a program within one year after the elimination of the employee's position;

- b. inclusion in a special job registry from which all agencies may attempt to hire employees prior to seeking applications from the general public. The employee will be listed in the job registry according to the occupational categories. Participation in the job registry is voluntary. The Department of Administration will administer the job registry;
  - c. retain all accrued sick leave credits; and
  - d. retain, cash out or use accrued vacation leave credits to extend the employee's effective date of lay-off. Employees who have been laid off may choose to "bank" their credits with the agency that laid them off until they accept permanent employment in a state agency. However, the employee will be cashed out when the employee's rights under the State Employee Protection Act end. The credits are not transferred if an employee accepts seasonal, temporary, or short-term employment in a state agency.
11. An employee who elects to retain sick leave, vacation leave or both at the time of lay-off may subsequently request the cash out of the leave in writing from the former employing agency.
  12. Implementation of the job registry components of the State Employee Protection Act and other rights and benefits of employees who are reemployed following lay-off are found in the recruitment and selection rules.
  13. Veteran's Preference in Retention
    - a. during a reduction in force, an agency will retain in employment a veteran, disabled veteran, or an eligible relative.

## VI. CLOSING

Questions concerning this policy should be directed to the Human Resources Bureau.

An employee may file a grievance under the grievance policy, ARM 2.21.8010 et seq., based on receipt of a written notice of lay-off due to reduction in force.

This policy must be followed unless it conflicts with negotiated labor contracts which take precedence to the extent applicable.